

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA

PRISONER COMPLAINT
[FOR INMATE ACTION] UNDER 42 U.S.C. § 1983

Joe Nathan James, Jr
Name under which you were convicted

2-610
Your prison number

CIVIL ACTION NO 22-cv-00241-TFM-N
(To be supplied by Clerk of Court)

vs.

Steve Marshall (Official Capacity)
Name of Defendant(s)

Holman Prison, K-25 Holman 3700 Atmore, AL 36503
Place of Confinement and Address

INSTRUCTIONS - READ CAREFULLY

A. Complaint Form. You must file your original complaint and a copy for each named Defendant. Your complaint must be clearly handwritten or typewritten. Do not use the back of a page. Your complaint must be signed by you; no notary is required. Any false statement of material fact may serve as the basis for prosecution for perjury.

B. Proper Court. Your complaint can only be brought in this Court if a defendant is located in the Southern District of Alabama and the rest of the defendants are located in Alabama or if your claim arose in this district. The Southern District of Alabama is comprised of the following counties: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and Wilcox.

C. Separate Case. It is necessary to file a separate complaint form for each claim unless the claims are related to the same incident or issue.

D. Defendants. The persons who are listed as defendants in section III of the complaint are deemed by the Court to be the only defendants to this action. A defendant's present address must be provided. The Court is unable to serve process without the present address being furnished. The first defendant listed in section III should be the defendant that you list in the style of your case on your complaint form and motion to proceed without prepayment of fees and costs, if applicable, and any other pleading filed with the Court.

E. Pleading the Complaint. Your complaint should not contain legal arguments, case law or statutory citations. You are required to provide facts. Your complaint shall be a short and plain statement of your claim and shall provide fair notice to each defendant of the claim against that defendant and of the factual grounds upon which the claim rests.

F. Fees. This complaint cannot be properly filed unless it is accompanied by the \$402.00 filing fee, or a motion to proceed without prepayment of fees if you are unable to afford the filing fee and other costs associated with prosecuting this action. If IFP is granted the filing fee is \$350.00.

If you are unable to pay the filing fee and service costs for this action, you may ask the Court to let you proceed without prepayment of fees and costs. A blank motion for this purpose is included.

If you wish to proceed without prepayment of fees and costs, you must complete and mail to the Clerk of Court a copy of the "Motion to Proceed Without Prepayment of Fees" mailed to you with this complaint. This motion will be returned to you without action unless you have an authorized officer at the jail or prison complete the financial statement mailed to you with this form.

Even if the Court authorizes you to proceed without prepayment of filing fees, you are obligated to pay the full \$350.00. If you have the ability to pay a partial filing fee when your complaint is filed, you will be required to pay an amount, based on your assets, of up to the greater of 20 percent of your average monthly balance in your prison account or your average monthly balance for six months immediately preceding the filing of your complaint. Thereafter, your prison account will be garnished at the rate of 20 percent of your monthly income until the filing fee is paid.

G. Form of Pleadings. All pleadings and other papers filed must be on 8 1/2" x 11" paper, legibly handwritten or typewritten. Every document filed after the complaint must have the style of the case and the docket number. Every pleading must be signed by you and must contain your address and telephone number, if any; otherwise, the pleading will be stricken. See Fed. R. Civ. P. 11(a). No notary is required.

H. Certificate of Service. Each pleading filed after the complaint must contain a certificate of service indicating that the pleading has been served on the opposing parties and the date that it was sent. A pleading will be stricken if it does not contain this certificate of service. See Fed. R. Civ. P. 5.

I. Copies. This Court will not make copies of your complaint or pleadings unless you prepay the required per page copying fee.

J. Form of Pleadings. Do not write letters to the Court. All pleadings and documents should be sent to the Clerk of the Court, and not to a magistrate judge or a district judge.

K. No Evidence. No evidence shall be sent to the Court for filing or storing.

I. PREVIOUS LAWSUITS.

A. Have you filed any other lawsuits in state or federal court dealing with the same or similar facts involved in this action:

Yes () No (☒)

B. Have you filed other lawsuits in state or federal court relating to your imprisonment:

Yes (☒) No ()

C. If your answer to questions A or B above is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using this same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: Joe Nathan James, Jr.

Defendants: Terry Roybow; Commissioner of Alabama
Department of Corrections

2. Court (if federal court, name the district; if state court, name the county): United States
District Court for the Southern District of Alabama

3. Docket Number: 20-0299-LG-MU

4. Were you granted the opportunity to proceed without payment of filing fees?

Yes () No (☒)

5. Name of judge to whom the case was assigned: P. Bradley Murray

6. If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.

Dismissed without prejudice for being malicious

7. Approximate date of filing lawsuit: May 31, 2020

8. Approximate date of ruling by court: July 20, 2020

II. YOUR PRESENT COMPLAINT.

A. Place or institution where action complained of occurred: Holman Prison

B. Date it occurred: DN going

C. Is there a prisoner grievance procedure in this institution? NO

D. Did you present the facts relating to your complaint in the state prisoner grievance procedure?
Yes () No (✓)

E. If your answer is YES:

1. What steps did you take? N/A

2. What was the result?

F. If your answer is NO, explain why not: No grievance process

G. Your claim (briefly explain your claim: what, when, where, who; do not cite cases; you may, without leave of Court, add up to five (5) additional pages if necessary):

The defendant entered into an agreement with the Federal Defenders of the Middle District of Alabama to end a lawsuit brought against the lethal injection protocol, the agreement allowed only the federal Defenders clients to exercise an option, to elect nitrogen hypoxia, which by law they had previously waived and was forbidden to exercise, §15-18-82.1 (2) of the Ala. Code 1975, the defendant then incentivized the Federal Defenders clients by agreeing to not seek execution dates for those who signed a form created by the federal Defenders, the defendant's agreement created a protection under the law which has been unequally applied and to the exclusion of the Plaintiff, because although the Plaintiff is similarly situated as the clients of the Federal Defenders, the defendant has caused an execution date to be set for the Plaintiff, although numerous



III. PARTIES.

A. Plaintiff (Your name/AIS): Joe Nathan James, Jr. Z-610

Your present address: K-25 Helman 3700 Atmore, AL 36503

B. Defendant(s):

1. Defendant (full name) Steve Marshall is employed as Attorney ^{GENERAL} at State of Alabama
Pc. Box 300152

His/her present address is 501 Washington Avenue, Montgomery, AL 36130

(a) Claim against this defendant: due process and equal protection
violation

(b) Supporting facts (Include date/location of incident):

Entered into an agreement affording others similarly situated as
the Plaintiff the opportunity to exercise a right that they waived, while
excluding the Plaintiff because of his representation

2. Defendant (full name) N/A is employed as N/A
at N/A

His/her present address is N/A

(a) Claim against this defendant: N/A

(b) Supporting facts (Include date/location of incident):

3. Defendant (full name) N/A is employed as N/A
at N/A

His/her present address is N/A

(a) Claim against this defendant: _____

(b) Supporting facts (Include date/location of incident): _____

C. Additional Defendants: (If there are additional defendants, you may list them on separate pages using the same outline above).

IV. A. You must answer the following questions:

1. State the conviction(s) for which you are presently incarcerated: Capital Murder
during burglary first degree.

2. When were you convicted? June 16, 1999

3. What is the term of your sentence? death

4. When did you start serving this sentence? N/A

5. Do you have any other convictions which form the basis of a future sentence?

Yes () No (☒)

If so, complete the following:

(a) Date of conviction: N/A

(b) Term of sentence: N/A

6. What is your expected end of sentence (E.O.S.) date? N/A

B. If this present lawsuit concerns your criminal conviction or sentence, state whether your conviction has been:

	Conviction	Sentence
Reversed	yes() no(<input checked="" type="checkbox"/>)	yes() no(<input checked="" type="checkbox"/>)
Expunged	yes() no(<input checked="" type="checkbox"/>)	yes() no(<input checked="" type="checkbox"/>)
Invalidated	yes() no(<input checked="" type="checkbox"/>)	yes() no(<input checked="" type="checkbox"/>)

Writ of habeas yes() no(☒)
corpus granted

yes() no(☒)

C. If you answered yes to any of the questions, state the Court or entity that relieved you from your conviction or sentence and the date: _____

V. State briefly exactly what you want the Court to do for you if you win (make no legal argument, cite no cases or statutes):

Stay the pending execution and order that the Plaintiffs right to make a fair and informed election be restored as have others similarly situated

VI. **AFFIRMATION.** By my signature below, I swear or affirm under penalty of perjury that the facts set out in this complaint are true and correct.

6/20/22
Date

Joe N. Garner #2-610
(Signature of Plaintiff Under Penalty of Perjury)

K-25 Holmes 3700
Current Mailing Address

Almore AL 36503

N/A
Telephone Number

PLAINTIFF SHALL IMMEDIATELY ADVISE THE COURT IN WRITING OF ANY CHANGE IN HIS ADDRESS, E.G., RELEASED, TRANSFERRED, MOVED, ETC. FAILURE TO NOTIFY THE COURT OF A NEW ADDRESS WILL RESULT IN THE DISMISSAL OF THIS ACTION FOR FAILURE TO PROSECUTE AND TO OBEY THE COURT'S ORDER.

Previous lawsuits:

1. JAMES v. Bailey, CA No. 2:96-CV-01053-SLB-ETC (N.D. Ala. Oct. 11, 1996)
2. JAMES v. Alabama, CA NO. 5:96-CV-001340-ELN-ETC (N.D. Ala. July 22, 1996).
3. JAMES v. Bailey, CA No. 2:96-CV-01523-JFG-ETC (N.D. Ala. Oct. 11, 1996)
4. JAMES v. Raybon, et al., Civil Action: 20-2299-CG-MU
5. JAMES v. Raybon, et al., CA No. 21-0437-CG-MU
6. JAMES v. Raybon et al., CA NO. 21-0450-CG-MU
7. JAMES v. Marshall et al., CA No. 21-0453-CG-MU
8. JAMES v. Jefferson County et al., CA No. 22-33-CG-MU

Hobbs Actions:

1. JAMES v. Garrett, CA No. 2:95-CV-21115-SLB-ETC
2. JAMES v. Culliver, CA N. 2:10-CV-02929-CLS-HGD; AFF'd
JAMES v. Warden, — F. 3d — (11th Cir. July 1, 2020)
3. JAMES v. Raybon, Case No.: 1:22-CV-00152-SB-N

Continued:

Federal Defenders clients appeals became final years before those of the Plaintiff, the defendants agreement also acts to protect some white punishing others based solely on their representation, the Plaintiffs right to due process, to be equally protected under the law, rights which are guaranteed by the Fourteenth Amendment of the United States Constitution, are being denied in this matter, therefore the Plaintiff asks this Court to order the defendant to afford the Plaintiff the same protections as those afforded the clients of the Federal Defenders of the Middle District of Alabama, with whom the agreement was made, the Plaintiff also asks this Court to issue an injunction staying the execution set for July 28, 2022 ~~and~~ which was sought by the defendant.

JOE N. JAMES # Z-610
K-25

Halmon 3700
Atmore, AL 36503



This correspondence is forwarded from an Alabama State Prison. The contents have not been evaluated, and the Alabama Department of Corrections is not responsible for the substance or content of the enclosed communication.

United States District Court
Southern District of Alabama

Clerk

155 St. Joseph Street

Mobile, Alabama 36602

Legal Mail